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## NOTICE OF ALLOWANCE AND FEE(S) DUE

54265 7590 03/24/2010

CHADBOURNE & PARKE LLP  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

ROSEN, NICHOLAS D

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 03/24/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,073	10/03/2002	Jay S. Walker	17200.079US1	7244

TITLE OF INVENTION: SYSTEM AND METHOD FOR FACILITATING THE SALE OF A TRAVEL PRODUCT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	06/24/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail** **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
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**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

54265 7590 03/24/2010  
**CHADBOURNE & PARKE LLP**  
**30 ROCKEFELLER PLAZA**  
**NEW YORK, NY 10112**

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,073	10/03/2002	Jay S. Walker	17200.079US1	7244

**TITLE OF INVENTION: SYSTEM AND METHOD FOR FACILITATING THE SALE OF A TRAVEL PRODUCT**

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nonprovisional	NO	\$1510	\$0	\$0	\$1510	06/24/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
ROSEN, NICHOLAS D	3625	705-026000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_  
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_  
3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_  
Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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CHADBOURNE & PARKE LLP 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			ROSEN, NICHOLAS D	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 03/24/2010

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 642 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 642 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability****Application No.**

10/070,073

**Applicant(s)**

WALKER ET AL.

**Examiner**

Nicholas D. Rosen

**Art Unit**

3625

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the After Final amendment of March 16, 2010.
2. ☒ The allowed claim(s) is/are 68.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/Nicholas D. Rosen/  
Primary Examiner, Art Unit 3625

**DETAILED ACTION**

Claim 68 has been examined.

***Allowable Subject Matter***

Claim 68 is allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Offutt et al. (U.S. Patent Application Publication 2002/0184059), discloses a processor-implemented method for offering a travel product for sale, comprising: receiving from at least one customer an electronic travel inquiry related to a transportation ticket from a requester via a communications network, the travel inquiry including at least a preferred origin, a preferred destination, a preferred travel date, and a preferred travel time, the transportation ticket comprising at least one of an airline ticket, a train ticket, and a cruise ticket (Abstract; Figure 1; paragraphs 25, 36-38, 42-47, 53, and 56). Offutt does not expressly disclose a preferred class for a transportation ticket, but does disclose that the customer request can include lodging class (paragraph 46), and it is well known to specify fare class, as taught by Lynch (U.S. Patent 6,119,094) (column 7, lines 12-15). Offutt does not disclose querying an acceptable travel data range and an acceptable travel time range from a tolerance database, although Offutt does disclose choosing a geographical range for origins and destinations, without specifying how this is predetermined (paragraph 12), but it is well known to make queries from persons or databases.

Offutt discloses retrieving a plurality of alternative transportation ticket records from a database or databases, and comparing features of the alternative transportation tickets with the features preferred in the customer's request (Abstract; Figure 1; paragraphs 25, 36-38, 42-47, 53, and 56, especially paragraph 53). Offutt does not disclose retrieving only those alternative transportation tickets having alternate origins matching the preferred origin, having alternate destinations matching the preferred destination, having alternate travel dates within the acceptable travel date range, and having alternate travel times within the acceptable travel time range, but Lynch teaches retrieving only those alternative transportation tickets having alternate origins matching the preferred origin, having alternate destinations matching the preferred destination, and having dates/times within a reasonable distance of the preferred date (column 7, line 8, through column 8, line 15). Offutt does not disclose determining a preferred itinerary margin for the travel inquiry and an alternate itinerary margin for each of the plurality of alternative transportation tickets, but it is known to determine a profit margin for items, and endeavor to sell those which are most profitable, as taught by Walker et al. (U.S. Patent 7,249,050) (Abstract; column 3, line 42, through column 4, line 3; column 11, lines 14-39; column 15, lines 5-28; column 17, lines 23-31), and by Zaccarelli ("Is Your 'Internal Marketing' up to Par?").

Offutt does not disclose determining a preferred itinerary load factor discrepancy for the travel inquiry and an alternate itinerary load factor discrepancy for each of the plurality of alternative transportation tickets, but Dinell ("Businesses Taking a Hard Look at Air Travel as Fares Increase") teaches airlines offering promotions based on their

load factors (paragraph beginning "Promotion fares are offered because" through end of article). Offutt does not disclose querying an optimal load factor associated with a given itinerary, querying a given load factor associated with the given itinerary, querying historical sales data associated with the given itinerary, computing a projected load factor and the historical sales data, and computing the itinerary load factor as the difference between the optimal load factor and projected load factor; determining a value differential associated with the travel inquiry and each of the plurality of alternative travel tickets based on some combination of the preferred itinerary margin, the alternate itinerary margin, the preferred load factor discrepancy, and the preferred itinerary load factor discrepancy.

Offutt discloses selecting at least one alternative travel ticket, and determining date and times (Abstract; Figure 1; paragraphs 25, 36-38, 42-47, 53, and 56). Offutt does not disclose querying a benefit rating schedule from a benefit rating database, computing a weighted benefit rating based on the weighting schedule, the data difference, the time difference, and the class difference, querying a benefits database based on the weighted benefit rating, and retrieving at least one benefit for association with the at least one alternative travel ticket based on the querying of the benefits database, wherein the benefit includes a conditional expiration feature that causes the benefit to expire within a predetermined time period unless the customer accepts the alternative travel ticket within the predetermined time period, and providing the at least one benefit and the at least one alternative travel ticket for review by the customer via the communications network. Katz et al. (U.S. Patent 6,055,513) teach providing a

benefit offered with a product (column 18, lines 2-15; column 26, line 66, through column 27, line 22; Figure 9), and it is well known for benefits to be limited-time offers with conditional expiration features, just as it is well known to query databases. However, given the existence of claim elements not in the relevant prior art of record (see especially previous paragraph), and the number of disparate prior art references that would be required to assemble a method resembling that recited in claim 68, without clear motivations given in the prior art references or the knowledge generally available to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to assemble the teachings of the various references into the detailed method of claim 68, the claim as a whole is non-obvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number



for the organization where this application or proceeding is assigned is 571-273-8300.

Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D. Rosen/  
Primary Examiner, Art Unit 3625  
March 22, 2010